REMARKS

Claims 1 – 22 are pending in the instant patent application. Claim 1 has been amended to more particularly point out and distinctly claim the subject matter which the applicant regards as his invention and to present the claim in better form for consideration. In particular, independent claim 1 has been amended to more clearly claim a method of processing financial instrument information substantially in real time. Applicant respectfully submits that amended claim 1 is in condition for allowance and requests that the rejections against independent claim 1 and dependent claims 2 – 22 be withdrawn for at least the following reason.

The Office Action has made final the rejection of independent claim 1 as being anticipated under 35 U.S.C. § 102(e) by Pearson (U.S. Patent No. 6,023,684). In support of the rejection, the Office Action asserts that Pearson at lines 13 – 23 of the abstract teaches "consolidating the converted stochastic data records by storing the data records on a consolidated database in conformance with a predefined industry standard.

Applicant submits that Pearson does not teach the consolidation process claimed in independent claim 1 and therefore a *prima facie* case to support the anticipation rejection has not been established and should be withdrawn.

A careful reading of Applicant's specification clearly shows that consolidation is a process of grouping accounts for access and aggregation by criteria, creating a composite of market data that pertains to each financial instrument from data that originates from multiple sources, and creating composite data pertaining to the same customer or counterparty that originates from multiple sources. See page 3, lines 12 – 23 of Applicant's specification. In contrast to the assertions of the Office Action, Pearson does not teach creating a composite of market data that pertains to each financial instrument, which is part of the consolidation process. Pearson does not even mention market data or financial instruments. The cited portions of Pearson instead

describe; (a) caching a portion of the legacy database in local data memory to reduce latency (abstract, lines 12 – 23); (b) the problems presented when using legacy databases (col. 3, lines 33 – 47); and (c) using the local data memory to process user requests while updating the legacy database after the transaction application service processes the client request. None of the cited portions of Pearson teach or even hint at the consolidation process as claimed in independent claim 1.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). See also MPEP §2131. Applicant submits that Pearson does not teach at least the consolidating element of amended independent claim 1 and therefore respectfully requests the withdrawal of the rejection against claim 1. Dependent claims 2 – 22 depend directly or indirectly from claim 1 and are also allowable because claim 1 is allowable.

The Office Action has rejected dependent claims 4, 7 – 18, and 21 under 35 U.S.C. § 103 as being unpatentable over Pearson. In support of the § 103 rejections, the Office Action asserts a series of conclusory statements that it would have been obvious to one of ordinary skill in the art to make the claimed modifications to Pearson to arrive at the claimed invention. Although Applicant submits that dependent claims 4, 7 – 18, and 21 are allowable because independent claim 1 is allowable, Applicant traverses the § 103 rejections because Pearson fundamentally misses the point of Applicant's invention and actually teaches away from the claimed invention.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. 2143.03 citing In re Royka, 490 F.2d 981 (CCPA 1974). Rejections on obviousness grounds cannot be sustained by mere conclusory statements but must be supported by some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See In re Lee, 277 F.3d 1338 (Fed. Cir. 2002). A finding of obviousness under 35 U.S.C. § 103(a) requires a determination that the differences between the

claimed subject matter and the prior art are such that the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. Graham v. Deere, 383 U.S. 1 (1966). The relevant inquiry is whether the prior art suggests the invention and whether the prior art provides one of ordinary skill in the art with a reasonable expectation of success. Both the suggestion and the reasonable expectation of success must be found in the prior art. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991).

Pearson addresses the problem of the delays caused by legacy databases when the number of queries significantly increases. See Pearson, col. 3, lines 23 – 54. The example Pearson uses is the increase when the number of expected requests increases from an initially small number of bank tellers to the significantly larger number of bank customers. In such a situation, the legacy database may be overwhelmed by the increased number of queries resulting in a longer response time. Pearson reduces the response time by using a local data memory to hold a client's data retrieved from the legacy database when the client program begins a session. The application program can retrieve the client data from the local data memory without waiting for a response from the legacy database and can update the legacy database after the query is processed and thereby reduce the response time of the system. See Pearson, col. 4, lines 19 – 43. The types of application programs envisioned by Pearson are end-user services such as bill payment, retail banking transactions, and credit card account support. See Pearson, col. 5, lines 16 – 19.

In contrast, embodiments of Applicant's invention address the problem of gathering, analyzing, and reporting financial data regarding trading of financial instruments such as equities, complex fixed income/debt products, and complex derivative products denominated in multiple currencies. See Applicant's specification at page 2, lines 1 – 5.

The almost trivial simplicity of Pearson's end-user services such as bill payment and retail banking transactions compared to the daunting problem of gathering, consolidating and reporting of financial instrument trading would not lead one of

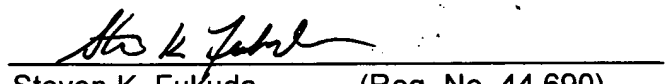
ordinary skill in the art to consider Pearson when faced with the problems tackled by the Applicant. This is strikingly apparent in Pearson because he does not mention or suggest any type of financial instrument as part of his financial transactions. Neither does Pearson suggest consolidating financial transaction information by creating a composite of market data pertaining to each financial instrument. In fact, since Pearson does not even access market data, it is impossible for him to create a composite of that market data. Moreover, Pearson is completely silent with regards to proactively alerting a user substantially in real time upon the existence of a forecast or settled transaction, market change, or customer-counterparty change that breaches a predetermined financial threshold specified by the user as required in claim 18. The only source for these teachings come from Applicant's own specification and suggests that the rejections are based on impermissible hindsight reconstruction.

Applicant respectfully requests entry of the foregoing amendments and remarks into the file history of the above-identified application. Applicant believes that each ground for rejection has been successfully overcome and/or obviated, and that all pending claims are in condition for allowance. Withdrawal of the rejections and allowance of the application are respectfully requested. If the Examiner does not feel that allowance is proper, Applicant respectfully requests a telephonic interview with the Examiner. Please contact Applicant's representative at 212.309.6000.

No additional fee is believed to be due in connection with filing of the instant request. If an additional fee is due, however, please charge the required fee to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310.

Respectfully submitted,

Date: May 30, 2006



Steven K. Fukuda (Reg. No. 44,690)
Customer No.: **09629**
212.309.6000

Attachments